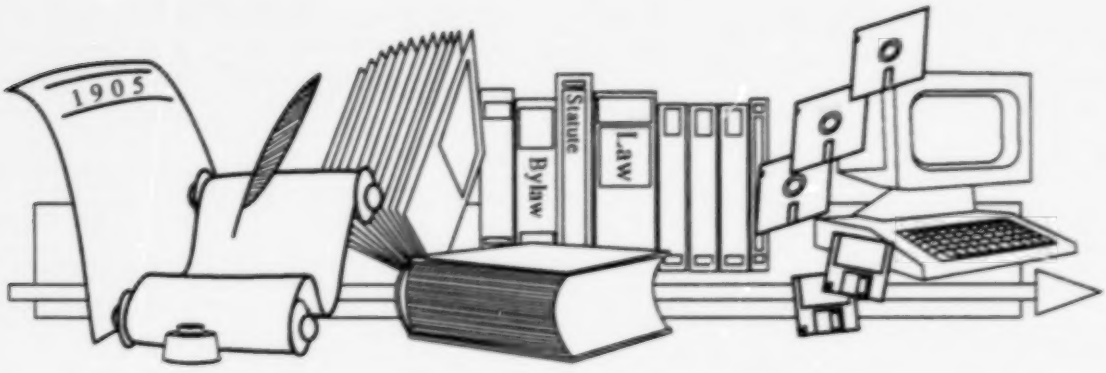
Legislation Paper No. 2

Second Discussion Draft

"Organization of Municipalities"

Response Deadline: June 15, 1990



Alberta

Municipal Statutes Review Committee

FOREWORD

In the first phase of its work, the Municipal Statutes Review Committee prepared a recommended statement of municipal policy. The second phase applies that policy to the rewriting of the Municipal Government Act. The Committee is using the same discussion paper process to review the Act as it used to develop the recommended policy statement.

Six Preliminary Draft Legislation Papers have been published to expose ideas for renewal of the Act to public review. Following consideration of the comments received from interested groups and individuals, Second Drafts of these Legislation Papers are being published for further public review and comment, this time directed more toward the detail of the Committee's proposals.

Following consideration of these comments, the Committee will present its final recommendation to the Minister of Municipal Affairs.

Readers will find it useful to read the series of Preliminary Draft Legislation Papers prior to considering any of the Second Drafts.

Interested readers are invited to submit comments by June 15, 1990 to:

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INTRODUCTION

This is the second draft of Legislation Paper No. 2, "Organization of Municipalities". It empowers the Council to organize itself and establish an administrative structure for the municipality. Readers are advised to refer to Preliminary Draft Legislation Paper No. 6 for definitions of terms used in the Paper.

Beside the title to each section of the draft legislation are numbers in (). These numbers refer to the sections of the existing Municipal Government Act which contain the provisions similar to those in the draft. These are provided to assist in comparing the proposed new legislation to the existing legislation.

A summary of the comments received on the Preliminary Draft of Legislation Paper No. 2 is included as an Appendix at the end of this paper.

SIZE OF COUNCILS

A major concern of respondents to the Preliminary Draft was the size of councils. Thirty five villages objected to the proposal to raise the population level from 250 to 500 at which a village could increase its council from three to five members. Other respondents suggested that there was insufficient flexibility in the proposal. The Committee has responded to these concerns by providing standard sizes of councils with flexibility for the size to be increased at local option.

ELECTION OF CHIEF ELECTED OFFICER

The existing Act provides that the Chief Elected Official (the Mayor or Reeve) is to be elected by council from among its own members in resort (summer) villages, villages, municipal districts and counties and by election at large in cities and towns. The Committee proposed to introduce flexibility by allowing a local option to select an alternative method. A number of respondents suggested that a change would not be appropriate for their municipalities. Since the proposal is permissive, at local option, the Committee retained the option in the Second Draft.

WARDS

In the Preliminary Draft, the Committee proposed retention of the existing power of a city council to divide the city into wards. In this Second Draft, such authority has been extended to all municipalities, including municipal districts and counties. In these rural municipalities, the boundaries of the wards (electoral divisions) would initially be established in the Incorporation Order but subsequent changes would be by bylaw rather than by Ministerial Order as at present.

RESIGNATION

In the existing Act and in the Preliminary Draft, the resignation of an elected official is effective on the date it is received by the relevant officer of the municipality. This has been expanded in the Second Draft to permit a letter of resignation to indicate the effective date. An elected official would be able to write a letter of resignation effective, for example, at the end of the month so as to provide some notice to council of the upcoming vacancy.

ROTATION OF CHIEF ELECTED OFFICIAL

During the 1986/89 term of office a number of chief elected officer positions became vacant for a variety of reasons. Some of the affected councils judged it would be in the best interests of the municipality to rotate the remaining members of the council through the position of mayor for the remainder of the term even though the existing Act does not clearly authorize that practice in the way that it was carried out. Therefore the Preliminary Draft proposed wording that would clearly allow such a system. A number of respondents suggested that such a system is not in the best interests of municipalities and should be removed. Since the proposal is permissive, by local option, the Committee retained it in the Second Draft but has limited its application to the final eighteen months of a term of office.

MEETINGS IN PUBLIC

One of the recurrent concerns raised by the general public is the way in which councils use "in camera" meetings. Even some elected officials complain that their councils use "in camera" meetings to discuss the issues and simply rubber stamp the results of these private meetings without any discussion of the issues publicly at council meetings. Therefore the Committee proposed to clarify the intent of the existing Act by specifying that council and committee meetings are to be held in public but with the provision that either of them could go "in camera" if the situation warranted. Furthermore the confidentiality of "in camera" sessions was emphasized by including the release of information from an "in camera" meeting among the actions that could subject an elected official to disqualification.

A number of respondents saw this proposal as it relates to committee meetings as being detrimental to their operations. The committee is convinced that one of the great strengths of municipal government is that its decision-making process is open to public review and participation. Provision is included for both council and its committees to go "in camera" when it is in the public interest to do so. (In this second draft the committee has also proposed that the Procedural Bylaw could specify meetings or portions of meetings of committees that are to be held in camera.)

REGULAR MEETING DATES

The Committee had proposed that the dates of the organizational meeting and of regular meetings of council be set out in the Procedural Bylaw, rather than being established at the organizational meeting, as at present. Several municipalities suggested that this would reduce flexibility and could pose some operational difficulties. The Committee has removed them from the Procedural Bylaw in response to these comments.

SPECIAL MEETINGS

In response to several comments, provision has been included to hold a special meeting by conference telephone call or other electronic means so as to allow the use of emerging technologies.

There is general support for the Committee's proposals regarding the organization of municipalities. Refinements to reflect suggestions received have been included throughout the Second Draft in addition to those commented on above.

The remainder of this paper is a discussion draft of the legislation itself. Readers are requested to refer to the section numbers in the draft legislation when providing comments. Comments should be received by the Committee no later than June 15, 1990.

INDEX

PART II

ESTABLISHMENT OF MUNICIPALITIES

			Page
DIVISION I	ORGANIZATION OF THE COUNCIL		
	3001	Municipal Council	1
	3002	Number of Elected Officials	1
	3003	Chief Elected Official	2
	3004	Ward System	2
	3005	Term of Office	3
	3006	Resignation	3
	3007	Council Vacancies	4
	3008	Chief Elected Official Vacancy	4
	3009	Insufficient Numbers	4
	3010	Quorum	5
	3011	Meetings in Public or in Private	5
	3012	Voting	6
	3013	Committees	6
	3014	Procedural Bylaw	7
	3015	Meetings	7
	3016	Remuneration	8
	3017	Deputy Chief Elected Official	8
DIVISION 2	ELECTED OFFICIALS		
	3018	Oath of Office	9
	3019	Title	9
	3020	Duties of Elected Official	9
	3021	Duties of Chief Elected Official	10
	3022	Disqualification	10
	3023	Pecuniary Interest	11
	3024	Validity of Contracts	12
	3025	Disclosure of Pecuniary Interest	13
	3026	Resignation on Disqualification	13
	3027	Dismissal of Application	15
	3028	Appeal	15
	3029	Reimbursement	15
	3030	Disclosure of Information	15

INDEX

PART II

ESTABLISHMENT OF MUNICIPALITIES

			Page
DIVISION 3	ADMINISTRATION		
	3031	Chief Administrative Officer	16
	3032	Designated Officer	18
	3033	Appointments	18
	3034	Personnel Policy	19
	3035	Engineers & Lawyers	19
	3036	Assessors	19
	3037	Acting Officers	19
DIVISION 4	CORPORATE RESPONSIBILITIES		
	3038	Municipal Office	20
	3039	Maintenance of Records	20
	3040	Signing Authority	21
	3041	Fidelity Bond	21
	3042	Annual Financial Statement	21
	3043	Auditors	21
	3044	Auditors Examination & Report	22
	3045	Contents of Auditor's Report	22
	3046	Report of Inadequacies	23

MUNICIPAL GOVERNMENT ACT

PART III

ORGANIZATION

Division 1

Organization of the Council

MUNICIPAL COUNCIL (26)

3001(1) Every municipality shall have a Council that, pursuant to the authority vested in it by this or any other enactment, may adopt policies and approve programs to provide necessary and desirable services for the residents of the municipality.

(2) The powers, duties and authority imposed or conferred on a municipality by this or any other enactment are vested in and exercisable by the Council.

NUMBER OF ELECTED OFFICIALS (27)

3002(1) The council of

(a) a rural municipality shall consist of

(i) the number of elected officials set out in the incorporation order for that rural municipality, or

(ii) such other number of elected officials authorized by bylaw of the council

one of whom shall be the chief elected official.

(b) a village and resort village shall consist of

(i) 3 elected officials, or

(ii) 5 elected officials if authorized by bylaw of the council.

one of whom shall be the chief elected official;

(c) a town or a city shall consist of a chief elected official and

(i) 6 elected officials, or

(ii) such other even number of elected officials authorized by bylaw of the council.

(2) A bylaw changing the number of elected officials that is finally passed less than 180 days prior to the next ensuing general election does not apply to that election.

(3) Subject to section 3004, the elected officials of a city, town or village shall be elected by the vote of the electors of the entire municipality.

CHIEF ELECTED OFFICIAL (27.1)

3003(1) The Chief Elected Official of a town or city shall be elected by the vote of the electors of the entire municipality unless Council by bylaw provides for the election of the Chief Elected Official from among its own members

(a) at the annual organizational meeting or

(b) at the organizational meeting held immediately following each general election.

(2) The Chief Elected Official of a resort village, village, municipal district, county or an improvement district shall be elected annually at the organizational meeting by the elected officials from among their own members unless the council by bylaw provides for the election of the Chief Elected Official by the vote of the electors of the entire municipality.

(3) A bylaw under this section that is finally passed less than 180 days prior to the next general election does not apply to that election.

(4) When a bylaw or order is made, amended or repealed under this section, it shall not affect the position of the chief elected official until the next election.

(5) Part IV Section 6 applies to a bylaw under this section and to a bylaw repealing a bylaw under this section.

WARD SYSTEM (28)

3004(1) The Council by bylaw may

(a) divide the municipality into wards, and

(b) establish or alter the boundary of the wards.

(2) A bylaw under this section

(a) shall designate each ward by name or number or both.

(b) shall designate the number of elected officials to be elected by the electors of each ward in such a manner that the number of electors represented by each elected official is within 25% of the average number of electors represented by all the elected officials except when a bylaw pursuant to section 47(2) of the Local Authorities Election Act is in effect.

(c) shall not be made, amended or repealed within 180 days of the date of the next general election, and

(d) does not apply to or affect the composition of the Council until the next general election.

(3) The wards in a rural municipality shall be those set out in the incorporation order until such time as the council passes a bylaw under this section.

TERM OF OFFICE (36)

3005(1) A person elected at a general election is elected for a 3 year term of office commencing at the organizational meeting following the general election and continuing to the organizational meeting following the next general election unless the office is vacated sooner.

(2) A person elected at a by-election is elected for a term of office commencing at the next regular meeting of the Council and continuing to the organizational meeting following the next general election unless the office is vacated sooner.

(3) Subject to subsection (4), if pursuant to the Local Authorities Election Act the first election in a newly formed municipality is conducted by the Minister at a time other than a general election, the persons elected at the first election are elected for a term of office commencing at the organizational meeting following the first election and continuing to the organizational meeting following the next ensuing general election unless their office is vacated sooner.

(4) The Minister by order may provide that the persons elected at a first election continue to hold office until the organizational meeting following the next general election if the first election is not more than 18 months prior to the holding of a general election.

RESIGNATION (52)

3006(1) An elected official may resign office at any time by giving notice in writing to the chief administrative officer who shall report the resignation to the next meeting of the Council.

(2) A resignation takes effect and the office becomes vacant on the date specified in the notice or if no date is specified on the date the notice is received by the chief administrative officer

(3) If the office of the chief elected official is filled by an election among the members of council, the chief elected official may resign that position while retaining his office as an elected official.

COUNCIL VACANCIES (54)

3007(1) When a seat on a Council becomes vacant the Council shall make provision to fill the vacancy by the holding of a by-election for that purpose except that

(a) a by-election need not be held for a vacancy that occurs during the last six months of a term of office

(b) a by-election need not be held if the Council consists of six or more members

(i) in the last 18 months of a term of office if there is only one vacancy on the Council, or

(ii) in the last year of a term of office if the number of members remaining on the Council is at least one more than the quorum of the whole Council.

(2) If a Council does not hold a by-election for a reason referred to in subsection (1), a reference in this Act to the whole Council shall be deemed to be to the number of members remaining in office.

CHIEF ELECTED OFFICIAL VACANCY (53)

3008(1) If the office of chief elected official is filled by an election among the members of the council and the office becomes vacant, at its next regular meeting the council shall elect one of its remaining members as chief elected official for the remainder of the term of office.

(2) If the office of chief elected official is filled by a vote of the electors of the entire municipality and the office becomes vacant, the council shall make provision to fill the vacancy by holding a by-election, except that if there is less than 18 months remaining in the term, the council may elect one or more of its remaining members as chief elected official in a manner that

(a) only one member holds office as chief elected official at any time, and

(b) the office of chief elected official is filled at all times for the remainder of the term of office.

INSUFFICIENT NUMBERS (56)

3009(1) When the required number of elected officials is for any reason not nominated or elected, the Minister

(a) may appoint an official administrator with all the powers and duties of the Council until a Council is sworn into office and, for the purposes of filling the vacancies, direct the official administrator to conduct an election, or

(b) notwithstanding section 3010 may order that the elected officials who have been elected shall be deemed to be a quorum until elections are held to fill the vacancies and direct the Council to conduct an election.

(2) If the number of elected officials is reduced by vacancy or illness to less than a quorum, the Minister, may

(a) notwithstanding section 3010, order that the remaining elected officials shall be deemed to be a quorum, until the indisposed officials are able to resume duties or direct the council to conduct a by-election as the case may be, or

(b) appoint an official administrator with all the powers and duties of the council until a by-election is held to fill the vacancies.

(3) If the number of elected officials eligible to vote on any matter is reduced to less than a quorum by reason of abstention pursuant to section 3025 the Minister may

(a) notwithstanding section 3010, order that the elected officials eligible to vote shall be deemed to be a quorum for purposes of voting on that matter

(b) notwithstanding section 3025, order that all of the elected officials are qualified to vote and that an elected official may not be disqualified by reason of voting on the matter pursuant to the order.

QUORUM (37)

3010(1) A majority of the whole Council is necessary to form a quorum.

(2) A bylaw, resolution or other proceeding is not valid unless it is passed at a regular or special meeting of the Council held in public at which a quorum is present.

MEETINGS IN PUBLIC OR IN PRIVATE (44)

3011(1) Subject to the provisions of this section a Council and every committee of it shall hold its meetings in public and no person shall be excluded from such a meeting.

(2) The person presiding at a meeting may cause to be expelled and excluded any person who has been guilty of improper conduct at the meeting.

(3) When a majority of the members present is of the opinion that it is in the public interest to hold part of a meeting of the Council or any committee of it on any subject in private, the Council or committee, by resolution, may exclude any person or persons from the meeting but it has no power during that portion of the meeting to pass any bylaw or resolution apart from the resolution necessary to revert back to a public meeting.

(4) A Procedural Bylaw may provide that the meetings or portions of meetings of any committee of the council shall be held in private but it has no power during that portion of the meeting to pass bylaw or resolution apart from the resolution necessary to revert back to a public meeting.

VOTING (49)

3012(1) Each elected official in attendance at a meeting of the Council shall vote on every matter unless he abstains from voting pursuant to section 3025.

(2) Before a vote is taken on any matter, an elected official may request that the vote be recorded and in that case the name of each elected official present and whether the official voted for or against the matter shall be recorded in the minutes of the meeting.

(3) A matter on which there is an equality of votes shall be deemed to be decided in the negative.

COMMITTEES (45)(47)

3013(1) A Council by bylaw may establish

(a) an executive committee, and

(b) standing committees

(2) A bylaw that establishes an executive committee shall provide for

(a) the number of members of the committee and the method of their appointment, and

(b) the delegation to the committee of any powers and duties imposed and conferred on the council by this act except the power to pass a bylaw.

(3) A bylaw that establishes standing committees shall provide for

(a) the number of members of each committee and the method of their appointment, and

(b) terms of reference for each committee, describing the matters which may be delegated to it for consideration or inquiry and subsequent recommendation to the council or for decision.

(4) An executive or standing committee may be comprised of

(a) members of the council, or

(b) members of the council and employees of the municipality.

(5) All decisions, orders, contracts, agreements and documents made or executed by an executive committee are as valid and enforceable as if made directly by the council that delegates the power.

(6) A council may, by resolution, appoint a special committee to consider or inquire into any matter and make recommendations to the council.

PROCEDURAL BYLAW (NEW)

3014(1) A Council shall pass a bylaw that establishes the rules for calling meetings, governing its procedures and generally for the transaction of the business of the council, an executive committee and standing or special committees appointed by council.

(2) A bylaw under subsection (1) may only be enacted or amended if 2/3 of the members of the whole council vote in favour.

MEETINGS (43)

3015(1) The organizational meeting of a council shall be held annually, no later than 2 weeks after the 3rd Monday of October excepting in the case of a resort village it shall be held no later than August 31st, at a time and place to be fixed by the designated officer.

(2) A council at any meeting at which all the members are present may decide to hold regular meetings of the council and the resolution shall state the day, hour and place of every such meeting and no notice of any such meeting is necessary.

(3) A special meeting of the Council may be called by the chief elected official when he considers it appropriate to do so.

(4) A special meeting of the Council may be called by the chief elected official within a time specified by a procedural bylaw and shall be called within 14 days of receipt of a written request signed by a majority of the elected officials.

(5) Written notice of a special meeting may be delivered to each elected official or an adult at the residence or place of business of the elected official within a time specified by procedural bylaw or it shall be delivered 24 hours prior to the special meeting.

(6) A special meeting may be held on shorter notice, either oral or written, than that required under subsection (3), if prior to the beginning of the meeting at least 2/3 of the members of the Council give written consent to the holding of the meeting.

(7) The notice of a special meeting shall state

(a) the time and place at which it is to be held, and

(b) in general terms the purpose of the meeting.

(8) No business other than that stated in the notice shall be transacted at a special meeting unless all of the members of Council are present, in which case, by unanimous consent other business may be transacted.

(9) A regular or special meeting of the council or any committee thereof may be held by means of an electronic communications system provided that

(a) the public is informed of the meeting,

(b) the system allows the public to observe or hear the entire meeting at a place specified in the announcement of the meeting and at least one designated officer is in attendance at that place, and

(c) the system allows all the elected officials participating in the meeting to observe or hear all discussion by all of the other participants and to vote

and an elected official participating in a meeting by means of such system is deemed to be present at the meeting.

REMUNERATION (50)

3016(1) The Council may provide for the payment of remuneration to the chief elected official and to the other elected officials either annually or otherwise for carrying out the duties of their offices.

(2) A Council may provide for the payment of expenses incurred by any elected official in carrying out his duties at the rates and in the manner provided by the resolution.

DEPUTY CHIEF ELECTED OFFICIAL (40)

3017(1) At the organizational meeting annually a Council shall elect one or more of its elected officials as deputy chief elected official so that

(a) only one elected official holds office as deputy chief elected official at any time, and

(b) at all times the office of deputy chief elected official is filled.

(2) When the chief elected official is unable to perform any or all of the duties of office for any reason or when the office is vacant, the deputy chief elected official has all the powers and shall perform any or all the duties of the chief elected official during his inability.

(3) The Council may at the organizational meeting or as the need arises appoint an acting chief elected official to perform the duties of the office when both the chief elected official and the deputy chief elected official are unable to perform the duties of the office.

(4) The acting chief elected official has all the powers and shall perform all the duties of the deputy chief elected official during his inability.

DIVISION 2

ELECTED OFFICIALS

OATH OF OFFICE (41)

3018 Every elected official shall make and sign the official oath or take an affirmation prescribed by the Oaths of Office Act before entering on the duties of any or all of

(a) chief elected official

(b) deputy chief elected official

(c) acting chief elected official, or

(d) elected official

and the signed oath or affirmation shall be retained by the municipality.

TITLE (11)

3019 A council may provide that an elected official shall be referred to by a title selected by the council and that reference is valid for all purposes.

DUTIES OF ELECTED OFFICIAL (NEW)

3020 It is the duty of each elected official to

(a) devote his energies to the development and evaluation of policies and programs by attending and participating in the meetings of the Council and any board, committee or other agency to which he is appointed by the Council,

(b) consider the welfare of the whole municipality,

(c) pursuant to the procedural bylaw, bring to the attention of the Council any information that he considers necessary to be considered by it for the promotion of the welfare of the municipality,

(d) report to the chief elected official any negligence, carelessness or violation of duties by any employee or elected official of the municipality,

(e) communicate with the chief administrative officer or deputy in order to obtain any information the elected official requires regarding the administration of the municipality, and

(f) maintain the confidence of any matters discussed in a private meeting pursuant to section 3011(3) until they are discussed at a public meeting.

DUTIES OF CHIEF ELECTED OFFICIAL (51)

3021(1) In addition to duties as an elected official the chief elected official shall

(a) subject to the procedure bylaw, preside at all meetings of the Council whenever present

(b) report to the chief administrative officer any negligence, carelessness or violation of duties by any employee of the municipality

(c) report to the Council at a meeting held pursuant to section 3011(3) any negligence, carelessness or violation of duties by the chief administrative officer and

(d) recommend to the Council any measures that will better the welfare of the municipality.

(2) The chief elected official

(a) by virtue of office is a member of all boards, associations, committees or other organizations to which the Council has the right to appoint members pursuant to this Act, and

(b) when in attendance, possesses all the rights, privileges, powers and duties of a member, whether elected or appointed.

DISQUALIFICATION (29)

3022(1) A person is disqualified from remaining an elected official if he

(a) ceases to be qualified for nomination under the Local Authorities Election Act

(b) is a judge of a court or is a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta

(c) subject to subsection (2), is absent from the regular meetings of the Council for an 8 week period commencing on the date of the first meeting from which he is absent

(d) is convicted of an indictable offence punishable by imprisonment for five or more years or an offence under section 123 of the Criminal Code (Canada), or

(e) contravenes section 3012(1) or 3020(f).

(2) A person is not disqualified under subsection (1)(c) if the absence is authorized by a resolution of the Council passed

(a) at any time prior to the conclusion of the last regular meeting of the Council during the 8 week period, or

(b) if the last regular meeting of the Council during the 8 week period is not held, at any time prior to the conclusion of the next regular meeting of the Council.

(3) Notwithstanding section 24 of the Local Authorities Election Act, an elected official who is disqualified under this section is eligible to be elected at the next ensuing general election in the municipality if qualified for nomination under the Local Authorities Election Act.

PECUNIARY INTEREST (30)

3023(1) In this section and sections 3024 and 3025

(a) "corporation", "distributing corporation", "shareholder", "voting shares", "voting rights", "director" and "officer" have the same meaning as they have in the Business Corporations Act

(b) "pecuniary interest" means, with respect to an elected official, an interest in a matter that could monetarily affect

(i) the official

(ii) a corporation, other than a distributing corporation, in which the official is a shareholder, director or officer

(iii) a distributing corporation in which the official beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the official is a director or officer

(iv) a partnership or firm of which the official is a member, or

(v) a corporation, partnership, firm, government or person that employs the official.

(2) For the purposes of this section and sections 3024, 3025 and 3031, the pecuniary interests of the spouse, children or parents of an elected official or parents of his spouse that are known to him or of which he reasonably should know shall be deemed to be the pecuniary interests of the official.

(3) For the purposes of this section and sections 3024, 3025 and 3031, an elected official does not have a pecuniary interest by reason only of any interest that he may have

(a) as an elector, taxpayer or utility customer of the municipality, or

(b) by reason of his appointment by the Council as a director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality or by reason of his being appointed as the representative of the Council on a board, commission, committee or other body

(c) with respect to any allowance, honorarium, remuneration or benefit to which he may be entitled by reason of being an elected official or by reason of having been appointed by the Council to a position described in clause (b)

(d) by reason of his employment by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which he is an employee

(e) by reason of his being a member of a credit union, a cooperative association or a non-profit organization formed under an Act of the Legislature or of the Parliament of Canada, or a service club

(f) by reason of his appointment as the volunteer chief or other volunteer officer of a volunteer fire department, volunteer ambulance service, volunteer emergency measures organization or other volunteer organization or service or by reason of remuneration received as a volunteer member of any of those voluntary organizations or services

(g) by reason of having an interest that is an interest in common with the majority of electors of the municipality or, if the matter affects only part of the municipality, with the majority of electors in that part

(h) by reason of an interest that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member, or

(i) by reason of discussing or voting on a bylaw pursuant to Part IV, Section 76 when he has an interest in a business that is affected by the bylaw, except if the business is the only one of its type in the municipality.

(4) Subsection (3)(e) and (f) do not apply to an elected official who is an employee of a credit union or cooperative association or an employee of an organization or club referred to in those clauses.

VALIDITY OF CONTRACTS (31)

3024(1) No contract or agreement with a municipality or administrative body handling municipal funds under which an elected official of the municipality has a pecuniary interest is binding on the municipality unless

(a) the contract or agreement is for the performance of work or the provision of a service in the case of an emergency

(b) the contract or agreement is for the sale of goods or services to the municipality or to persons contracting with the municipality at competitive prices by a dealer in those goods or services incidental to and in the ordinary course of his business, or

(c) the contract or agreement has been approved by the Council.

(2) For purposes of this section, an elected official does not have a pecuniary interest by reason only of his provision of professional services incidental to and in the normal course of his practice of his profession to a person contracting with the municipality.

(3) An elected official who has a pecuniary interest in a contract or agreement with the municipality, other than a contract or agreement referred to in subsection (1)(a), (b) or (c), is disqualified from remaining an elected official.

(4) A person is disqualified from remaining an elected official if he uses information gained through his position as a member of the Council to gain a pecuniary benefit in respect of any matter in which he has a pecuniary interest.

DISCLOSURE OF PECUNIARY INTEREST (30)

3025(1) When an elected official has a pecuniary interest in a matter before the Council, a committee of the Council or a board, commission, committee or agency to which he is appointed as a representative of the Council, the member shall, if present

(a) disclose the general nature of the pecuniary interest prior to any discussion of the matter

(b) abstain from voting on any question relating to the matter

(c) subject to subsection (3), abstain from any discussion of the matter, and

(d) subject to subsections (2) and (3), leave the room in which the meeting is being held until the discussion and voting on the matter are concluded.

(2) If the matter with respect to which the official has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the officer to leave the room.

(3) If the matter with respect to which the official has a pecuniary interest is a question on which, under this or any other Act, the official as an elector or property owner has a right to be heard by the Council

(a) it is not necessary for the official to leave the room, and
(b) the official may exercise the right to be heard in the same manner as a person who is not an elected official.

(4) If an official is temporarily absent from a meeting when a matter in which he has a pecuniary interest is introduced, he shall immediately on his return to the meeting, or as soon thereafter as he becomes aware that the matter has been considered, disclose the general nature of his interest in the matter.

(5) The abstention of an official under subsection (1) and the disclosure of an official's interest under subsection (4) shall be recorded in the minutes of the meeting.

(6) An elected official who contravenes this section is disqualified from remaining an elected official.

RESIGNATION ON DISQUALIFICATION (32)

3026(1) If a person is disqualified from remaining an elected official under section 3022, 3024 or 3025 he shall forthwith resign.

(2) If the person does not so resign

(a) the Council may apply by originating notice to a judge of the Court of Queen's Bench for

(i) an order determining whether or not the person is qualified to remain an elected official, or

(ii) an order declaring the person to be disqualified from being an elected official,

or

(b) an elector who

(i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as an elected official, and

(ii) pays into court the sum of $250 as security for costs

may apply by originating notice to a judge of the Court of Queen's Bench for an order declaring the person to be disqualified from being an elected official.

(3) On hearing an application under this section and any evidence, either oral or by affidavit, that he requires, the judge may make an order

(a) declaring the person to be disqualified and his seat on the Council to be vacant

(b) declaring the person to be qualified to remain an elected official, or

(c) dismissing the application with or without costs.

(4) If a judge declares a person disqualified for a contravention of section 3024, he may order the person to pay to the municipality the sum of damages as determined by the court.

(5) An application under this section may only be made within three years of the date the contravention is alleged to have occurred.

(6) An application under this section may be commenced or continued notwithstanding that an election has been held between the time the disqualification is alleged to have arisen and the time the application is or was commenced and whether or not the person in respect of whom the application is being brought

(a) resigns before or after the election

(b) was re-elected in the election

(c) was not re-elected or did not run in the election, or

(d) has completed a term of office.

DISMISSAL OF APPLICATION (33)

3027 A judge who hears an application under section 3026 and finds that the person is disqualified under section 3024 or 3025 may nevertheless dismiss the application if he is of the opinion that the disqualification arose inadvertently or by reason of a bona fide error in judgement.

APPEAL

3028(1) The decision of a judge pursuant to section 3026 or 3027 may be appealed to the Court of Appeal.

(2) A person who is declared disqualified pursuant to section 3026 and appeals that declaration remains disqualified until the final determination of the appeal.

(3) If, on the final determination of the appeal, the disqualification is set aside

(a) the Court shall reinstate the person as an elected official for any unexpired portion of the term of office for which he was elected and require any person who has been elected to fill the balance of that term to vacate the office, and

(b) the Court may order that any money paid to the municipality pursuant to section 3026(4) be paid back to the official.

(4) If on the final disposition of the appeal the disqualification is set aside but the term of office for which the person was elected has expired, he shall not be reinstated but he is eligible to be elected at the next ensuing election in the municipality if otherwise qualified.

REIMBURSEMENT (35)

3029(1) If an application under section 3026 is dismissed or an order is issued declaring the person qualified to remain an elected official, the Council may reimburse the person in respect of whom the application was made for any of his costs and expenses that the Council considers reasonable other than costs that have already been awarded to the person by the judge.

(2) A Council may contract for insurance in respect of payments under subsection (1).

DISCLOSURE OF INFORMATION (35.1)

3030(1) A Council by bylaw may

(a) require that each elected official file with a designated officer a statement showing the names of

(i) his spouse, children and parents and the parents of his spouse, and

(ii) any corporation, partnership, firm, government or person referred to in section 3023(1)(b)

and

(b) require the designated officer to compile a list of all the names reported on the statements filed with him and provide a copy of the list to the employees of the municipality indicated in the bylaw.

(2) A council by bylaw may require that each elected official file with the council in the form and by the procedure set out in the bylaw, a statement listing all property in the municipality in which he has a pecuniary interest as defined in section 3023.

(3) A person who contravenes a bylaw under this section is guilty of an offence and liable to a fine as specified in the bylaw

DIVISION 3

ADMINISTRATION

CHIEF ADMINISTRATIVE OFFICER (57) (58) (59) (60)

3031(1) Every Council by bylaw shall establish the position of chief administrative officer who shall be responsible to the Council for

(a) the management of the human, financial and material resources of the municipality in implementing the policies and carrying out the programs approved by the Council,

(b) the administrative structure of the municipality, and

(c) the appointment and dismissal of employees other than designated officers pursuant to the personnel policy of the Council.

(2) A bylaw under this section shall specify

(a) the title by which the position is to be known

(b) the duties and responsibilities of the chief administrative officer

(c) the terms and conditions by which the chief administrative officer may delegate any duty or responsibility or portion of it which is conferred on him by this Act or the bylaw, and

(d) the method by which the annual review of his performance is to occur.

(3) A bylaw under this section may establish one or more deputy chief administrative officer positions and shall with respect to each such position include the matters referred to in subsection (2)

(4) The Council by resolution shall appoint a chief administrative officer and deputy, if any.

(5) The Council or a committee appointed by it shall at least annually review the performance of the chief administrative officer and deputy, if any.

(6) A chief administrative officer or deputy shall not be appointed or dismissed except on a 2/3 majority vote of the whole Council.

(7) The Council shall by resolution adopt a policy

(a) fixing the term of appointment of the chief administrative officer or deputy, if any, which may be at the pleasure of council or according to the terms expressed in the resolution, and

(b) fixing the remuneration, benefits and other prerequisites to be paid to the chief administrative officer or deputy, if any.

(8) Notwithstanding subsection (7) the Council by bylaw may enter into a contract with a chief administrative officer or deputy to provide for the matters referred to in that subsection.

(9) No person having a pecuniary interest in a contract with the municipality or administrative body handling municipal funds shall be appointed as chief administrative officer or deputy and any person who acquires a pecuniary interest during the term of his appointment may be immediately dismissed without notice and without termination benefits.

(10) For the purposes of subsection (9)

(a) "pecuniary interest" has the same meaning as "pecuniary interest" in section 3023, and

(b) "contract" excludes a contract to purchase property from the municipality if

(i) the property is, following application for its purchase by that person, advertised for sale by public tender at least once a week for 2 successive weeks in a newspaper circulated within the municipality

(ii) a notice of the sale by public tender is posted in the municipal office,

(iii) the highest tender is accepted,

(iv) the sale to the person is approved by a 2/3 majority of the whole Council, and

(v) not more than one sale of one parcel, and any additional parcels authorized under subsection (12) of residential or farm property is made to that person

and excludes a contract of employment entered into pursuant to subsection (9)

(11) For the purposes of subsection (11)(b)(v) the Minister may authorize the sale of more than one parcel to a chief administrative official or a deputy.

(12) In lieu of the position of a chief administrative officer the council by bylaw may establish a form of organization in which the duties of chief administrative officer are assigned to more than one position and the provisions of this section apply to each of the positions.

DESIGNATED OFFICER (82)

3032(1) A Council may appoint one or more designated officers to carry out the duties and responsibilities required by this Act and any other duties assigned by the Council.

(2) A designated officer position shall be established by bylaw which shall specify

(a) the title by which the position is to be known

(b) the duties under this Act for which the designated officer is responsible

(c) the other duties assigned to the position,

(d) the reporting relationship of the designated officer to the council and to the chief administrative officer, and

(e) the manner in which the performance of the designated officer is to be reviewed at least annually.

(3) A bylaw under this section may establish one or more deputy designated officer positions and shall with respect to each such position include the matters referred to in subsection (2).

(4) When a designated officer or deputy, if any, position has been established, the Council by resolution shall appoint a person as the designated officer or deputy.

(5) A reference in this act to a designated officer shall be deemed to be a reference to the chief administrative officer if no other employee has been designated by the council.

(6) Section 3031(6) through (11) apply to a designated officer or deputy, if any.

APPOINTMENTS (57)

3033(1) A chief administrative officer, designated officer or a deputy shall make and sign the official oath or take an affirmation prescribed by the Oaths of Office Act before entering on the duties of the office and the signed oath shall be retained by the municipality.

(2) When a chief administrative officer or designated officer is appointed, the municipality shall forthwith advise the deputy minister, in writing of the appointment.

PERSONNEL POLICY (NEW)

3034(1) Every Council shall approve a personnel policy which includes general provisions applying to all employees and specific provisions applying to specific employees or groups of employees as may be required.

(2) A council may delegate authority to the chief adminstrative officer to approve the policy referred to in subsection (1).

ENGINEERS AND LAWYERS (79) (80)

3035 If a municipality appoints a person with the title of

(a) municipal engineer he must be a member in good standing of the Association of Professional Engineers, Geologists and Geophysicists of Alberta, or

(b) municipal solicitor he must be a member in good standing of The Law Society of Alberta.

ASSESSOR (81)

3036(1) Every municipality shall appoint an assessor who shall be a member in good standing of the Alberta Assessors Association.

(2) When an assessor is appointed the municipality shall forthwith advise the deputy minister in writing of the appointment.

ACTING OFFICERS (NEW)

3037(1) Authority to appoint a person pursuant to sections 3031, 3032, and 3036 includes authority to appoint another person to act in his place when he is absent or is incapable of performing his duties or during a temporary vacancy in the office.

(2) When a chief administrative officer or designated officer is absent or incapable of performing his duties or during a temporary vacancy in the office,

(a) the chief elected official in the case of the inability of the chief administrative officer, and

(b) the chief administrative officer in the case of the inability of a designated officer

may appoint some person to act in place of the officer until the next meeting of the Council if no deputy officer has been appointed by the Council.

(3) During the period of the absence, incapability or vacancy a person appointed pursuant to subsections (1) and (2) has all the powers of the office.

DIVISION 4

CORPORATE RESPONSIBILITIES

MUNICIPAL OFFICE (98)

3038 Every municipality shall have an office at a place selected by the Council.

MAINTENANCE OF RECORDS (57) (58) (59)

3039 In every municipality a designated officer shall

(a) except in the case of a meeting held in private, truly record in the English language without note or comment all resolutions, decisions and other proceedings of the Council and the names of the elected officials present at the meeting

(b) present the minutes of each meeting for confirmation at a subsequent meeting of the Council

(c) preserve and keep safe the original of all bylaws

(d) preserve and keep safe all documents and records of any whatsoever kind presented at a meeting of the Council or committed to his charge by the Council

(e) submit to the Minister all statements, reports and all other information in regard to the municipality required by the Minister in the form he directs

(f) from time to time as required by the Minister, produce the minutes and records of whatsoever kind in regard to the municipality within his power or possession, for any or all of the purposes enumerated in section 11 of the Department of Municipal Affairs Act.

(g) give the Minister the names and any other information the Minister requires of the persons elected as elected officials within 5 days of the organizational meeting.

(h) have custody of the corporate seal

(i) collect, receive and safely keep all money belonging to or accruing to the municipality and issue receipts for it

(j) deposit in a financial institution, designated by the Council,all money belonging to the municipality received by him

(k) pay all accounts which are a proper charge against the municipality for any purpose authorized in the estimates of expenditure or by resolution of the Council, and

(l) maintain accurate records of the financial affairs of the municipality and report to the Council monthly or as often as the Council directs on the actual revenues and expenditures as compared to the estimates approved by the Council.

SIGNING AUTHORITY (63) (104)

3040 (1) The chief elected official and designated officer shall sign

(a) the minutes of each meeting of the Council

(b) all bylaws of the municipality

(c) all cheques of the municipality, and

(d) all contracts and agreements.

(2) The Council may authorize

(a) some person other than the chief elected official to sign the documents indicated in subsections (1)(c) and (d), and

(b) a designated officer alone to sign cheques for any purpose specified by the Council.

(3) Any signatures may be printed, lithographed or otherwise mechanically reproduced if so authorized by resolution of council.

FIDELITY BOND (86)

3041 Every municipality shall acquire a fidelity bond in an amount the Council considers adequate to bond on a blanket basis the chief administrative officer, any designated officers and any employees who are responsible for the management of the money of the municipality.

ANNUAL FINANCIAL STATEMENTS (66)

3042 Every municipality shall prepare in the form prescribed by the Minister annual statements of the financial transactions of the immediately preceding year and shall submit the statements together with the report of the auditors to the Minister by

(a) March 15 if the population of the municipality other than a city is 25,000 or less, or

(b) July 1 if the municipality is a city or if the population of the municipality is greater than 25,000.

AUDITORS (68)

3043(1) Every Council shall appoint one or more auditors to examine the financial statements of the municipality and of every administrative body handling municipal funds for which no statutory audit provision has been made and shall inform the Deputy Minister of the appointment.

(2) An elected official, designated officer or an employee of the municipality is not eligible for appointment as the auditor.

(3) A Council may authorize an auditor to perform additional duties of an accounting, auditing or of a value-for-money auditing nature.

AUDITOR'S EXAMINATION AND REPORT (69)

3044(1) The auditor has at all times the right of access to any and all of the records, including the books, documents, accounts, vouchers, receipts, investment securities, debentures and matured debentures paid, of the municipality or other administrative body handling municipal matters or funds.

(2) The auditor is entitled to receive from members of the Council, any administrative body handling municipal funds, or any official or employee of the municipality and any other person any information or explanation necessary for the performance of his duties.

(3) The auditor shall make an examination that will enable him to report to the Council on the annual financial statement of the municipality and shall state in his report whether in his opinion the annual financial statement presents fairly the financial position of the municipality and the results of its operations during the immediately preceding year, in accordance with generally accepted accounting principles applied on a basis consistent with that of the previous year.

(4) The auditor may base his opinion under subsection (3) on modifications of generally accepted accounting principles, if he discloses those modifications in the report.

(5) In addition to the examination and reports required by this section,

(a) the Minister or the Council may at any time require any further examinations and reports from the auditor that are considered necessary, or

(b) the auditor may on his own initiative make any further examinations and reports he considers advisable

and this section applies to those examinations and reports.

CONTENTS OF AUDITOR'S REPORT (71)

3045 The auditor in his report shall make any statements he considers necessary in any case where

(a) the financial statement of the municipality is not in agreement with the accounting records

(b) the financial statement is not in accordance with the requirement of this or any other Act or a bylaw or resolution of the Council

(c) he has not received all the information and explanation he has required, or

(d) proper accounting records have not been kept so far as appears from his examination.

REPORT OF INADEQUACIES (72)

3046(1) Prior to March 31 in each year all fidelity bonds or securities required under section 3038 for the faithful performance of employees shall be produced to the auditor and he shall report any inadequacies therein to the Council.

(2) The auditor shall, in his discretion, report in writing to the chief administrative officer or the Council and the deputy minister every defalcation or irregularity dealing with the assets, liabilities, accounts, funds or financial obligations of the municipality or any other administrative body of the municipality which comes to his attention.

(3) The chief administrative officer or council shall on receipt of a report under subsection (2) immediately take any steps considered necessary to recover any misappropriated or misused funds or to institute proceedings for prosecution or both depending on the circumstances involved.

APPENDIX

LEGISLATION PAPER NO. 2

SUMMARY OF COMMENTS RECEIVED

(MSB means Municipal Services Branch, Alberta Municipal Affairs

Section Policy Statement 1.3

ID 17 West - Description does not fit ID's as councillors are appointed, not elected.

Section Policy Statement 3.8

County of Paintearth - Will this be too restricting to municipalities; change "empowered" to "must".

Section Corporate Responsibilities

Alberta Agriculture; Agriculture & Community Services - This sentence is unclear; appears some text omitted.

Section General

There are specific areas of the paper where reference to ID's, Rural Districts and Counties where all reference to these forms of government are omitted.

City of St. Albert -

(a) The document verbiage and language throughout appears to be outdated and is difficult to read. It is suggested that language and sentence structure be "modernized" to reflect current standards.

(b) Provision of a definition section is required to assist in interpretation and understanding of several of the articles.

(c) It is suggested that Sections 5 to 9 be removed in its entirety from the proposed legislation and incorporated into the Local Authorities Elections Act.

(d) It is suggested that the term "Mayor and Councillor" be used throughout the document regardless of the type of municipal jurisdiction.

Section 1(1)

City of Edmonton; City of Medicine Hat - Delete as Council's power implied in described duties elsewhere. Courts may interpret Council has only specific, explicit powers listed.

MSB - Add words "an elected" before word "council".

Section - The Council

City of Calgary - Ensure flexibility and efficiency are maintained or improved and unnecessary procedures are eliminated.

Section 1(1)(a)

Alberta Forestry, Lands and Wildlife - Is the municipality inferring the provisions of all or most government services? If so, many of the land managers' roles could be assumed by it.

Section 2

MD of Brazeau - Why does only a rural municipality have the right to an even number on Council?

MSB - Change title to read "Number of Elected Officials"; and provide local flexibility to change the number.

Section 2(1)(a)

Alberta Agriculture - Why is it necessary in a rural municipality for the number of councillors be determined by separate order in each case? Other types of municipalities Act states numbers.

Town of Whitecourt - Modify to read Section 4(2) and (3).

Section 2(1)(b)(i)

Thirty five municipalities responded to retain the option provision for five councillors as presently exists for population over 250 persons as the limiting to three councillors would put an excessive workload on three people. Also if there is a conflict between two personalities on council of only three can create irresponsible decision making.

Village of Blackie - Add new clause (ii) a greater number of councillors that the council authorizes by bylaw.

Section 2(2)

City of Edmonton - Amend to read "a bylaw changing or establishing the number of councillors should be passed not less than 120 days prior to the date of the next general municipal election". Change "finally passed" to "come into effect".

Section 3

MSB - Change title to read "Chief Elected Official" and provide that the CEO is elected by the vote of the electors of the entire municipality unless council, by bylaw provides for the election from among their own number.

Section 3(2)

Town of Lacombe - Recommend option to elect mayor from within Council be done by plebiscite and the election be done annually rather than a three year term as proposed in order to be consistent with selection of rural reeves and village mayors.

Village of Irricana - Have councillor elected with largest number of votes be declared the mayor.

MD of Clearwater - In event Council chooses to elect a reeve by the electors, then the only way to change back should be by referendum.

ID 21 - Take out "Chairman of ID Advisory Committee".

Section 3(3)(c)

ID 21 - Delete

County of Vulcan - Will counties be provided with same provision?

County of Parkland - Should be changed to read: "a Municipal District or County may provide for the election of the reeve by the vote of the electors of the entire municipality".

Section 3(3)

Town of Whitecourt - Election of mayor from amongst own may be confusing to electors.

Town of Bowden - Remove option to elect mayor from amongst own.

Section 3(3)(a) and (c)

County of Strathcona - Add county.

Section 4

MSB - Change title to read "Electoral Wards" and standardize the basic form of a municipality to allow each municipality to suit its individual needs and change to read: "180 days" rather than "120 days".

Section 4(2)

County of Paintearth - Remove word "is".

County of Strathcona - Does not support the concept of Lieutenant Governor in Council to change number of councillors and change divisional boundaries without municipality input.

Alberta Agriculture - Why is ward system treated differently in rural municipality - namely by Order?

Section 4(4)(a)

County of Paintearth; ID 21; MD of Cypress - There is no provision to take into account distances which should be seriously examined.

City of Edmonton - Should be similar to the provisions of the existing Section 26.

Section 4(4)(c) and (d)

City of Edmonton - Wording should be similar to Section 2(2) and 3(4) for the sake of consistency.

Section 4(4)

MD of Clearwater - Minister should have authority to relax the 25% variance where it cannot be reasonably met.

Section 5(2)

City of St. Albert - It is suggested that the wording be changed as follows: "A person elected at a by-election is elected for a term of office commencing at the next regular meeting of the Council until completion of the term of office".

Section 5(3)

City of St. Albert - It is suggested that the second to last word "sooner" be deleted and after the last word "vacated" the following be inserted "before the term is ended".

Section 5(4)

City of Calgary - Should read "...continue to hold office until the organization meeting following the general election..." (additional words underlined.

Section 6(1)

City of Calgary - Could read "...giving notice in writing to the designated official with responsibility for the minute book in section 40(b) who shall report..." rather than "to a designated official".

Section 6(1)(2)

Town of Whitecourt - Should state CAO rather than designated official.

Section 6(2)

City of St. Albert - Change "designated official" to "CAO".

Section 7

City of Edmonton - Add clause where vacancy occurs within eighteen months remaining in the term, council must hold a by-election.

Section 7(1)(b)

ID 17 West - Remove this clause as in municipalities utilizing wards or divisions, select groups or areas could be left out of democratic process entirely.

Village of Coalhurst - What was criteria used to determine a council under six cannot function?" Does this allow a council of a village the discretion of delaying a by-election should they deem one unnecessary?

County of Strathcona - Take out word "and" between section 7(1)(a) and (b).

Section 7 & 8

City of Edmonton - Add clause which addresses the following: "Where there is at least eighteen (18) months remaining in the term of the Council, and in the event of a vacating of the position of Mayor, or of an Alderman, Council must hold a by-election".

Section 8

MD of Brazeau - It seems inconsistent to require a by-election if the chief elected officer is elected by council but not if elected at large. You could end up with an MD council of four for almost three years. Although a council has the option of holding a by-election, not doing so may not be healthy.

Section 8(2)(b)

MSB - Amend to prevent confusion of rotating CEO's.

Section 8(2)(b)(ii)

Town of Whitecourt - Not consistent with the provision for duties of CEO (Section 21).

County of Parkland - We believe that a CEO's position is the focal point of the organization and is responsible for the organization's actions and operations and as such that it would not be prudent to fill this position with more than one member. A rotation method only gives cause for confusion. Should be changed to read: "elect one of its remaining members as Chief Elected Officer".

Section 9(3)

County of Strathcona - Expand to include absence due to illness where such illness causes a "vacancy".

Section 9(3)(b)

County of Strathcona - Do not support that an officer should vote even if quorum lost.

Section 11(1)

County of Parkland - It is agreed that Council meetings shall be held in public; however we strongly disagree that committees of council must hold their meetings in public and therefore would recommend that the existing section of 44(1) of the MGA not be changed.

A section may be added stating that at council's discretion, committee meetings may be held in public.

We believe local government requires committee meetings that are closed to the public for the same reason as the provincial government holds specific meetings behind closed doors.

City of Calgary - This section should ensure that flexibility and efficiency are maintained or improved, and unnecessary procedures are eliminated.

Town of Lacombe; Town of Morinville - Apart from executive committee meetings, we cannot agree that committee meetings need to be public.

City of St. Albert - Section does not allow for in-camera committee meetings for sensitive issues. Council should opt to designate certain meetings as closed.

County of Barrhead - Council has no problem with the section applying to regular meetings of Council, nevertheless, committee meetings are held on the spur of the moment and sometimes at different locations; therefore it is very difficult to announce these meetings in order to allow for public attendance. Therefore this should be clarified. Council has no objection to the public attending sub-committee meetings, nevertheless, the difficulty comes when informing the public as to the date, time and location.

MD of Kneehill - Why the need for committee meetings to be public?

Section 11(2)

City of Edmonton - Amend to read "may cause to expel".

Section 12(1)

MSB - Remove phrase "or committee of it" since council will decide committee's terms of reference.

Section 12(2)

ID 22 - Clarify whether record only person requesting recorded vote or how all present voted.

County of Barrhead - Council felt the present section in the Municipal Government Act was better in that a recorded vote may be called at any time including after or before the vote. The proposed suggestion might lead to a position where every vote would be a recorded vote if in fact they have no provision for asking for the record after the fact.

Section 13

Town of Whitecourt - Great danger of council's rights being usurped.

Town of Fox Creek - Disagree with requirement to establish standing committees through a bylaw as this requirement reduces flexibility and the ability to respond quickly to changing local circumstances.

Town of Lacombe - Executive committees well defined; however less well defined are the powers of standing committees. Clause 3(c) does not appear to delegate ability to make decisions and authorize certain actions. Clause 4 indicates cannot pass bylaws or borrow money thus indicating it can do pretty well anything else in decision making sense. Recommend better clarity.

Section 13(1)

MSB - Remove the numerous references to specific committees since a council should now be able to establish committees as it believes necessary. A more generic provision serves to increase the autonomy of the local government.

City of Edmonton - The "and" between 1(a) and (b) implies if council establishes an executive committee, they must establish a standing committee. Change to read that council can do either or both.

Section 13(1)(a)

City of St. Albert - Delete reference to Executive Committee.

Section 13(3)

City of Grande Prairie - Should provide for members of public to be appointed to standing committees.

Section 14

Town of Fox Creek - The suggested section makes it more difficult to respond to changing conditions.

Section 14(a)

County of Vulcan - Council presently sets meeting dates by resolution at organizational meeting. This change would result in having to pass new bylaw each time meeting changed.

Section 14(1)(a)(b)

County of Barrhead - Feel that a bylaw establishing the date, hour and place of holding regular meetings would be very cumbersome and that an ordinary resolution of council would suffice. There must also be provision for the changing of the date of a regular meeting and therefore we feel that the present MGA is better that what is proposed in this section.

Section 14(1)(b)

County of Vulcan - Bylaw would leave no flexibility as presently exists.

Summer Village of Lakeview - No provision to hold election and organizational meeting in summer time.

Section 14(c)

County of Parkland - Requires a procedural bylaw to be passed for the establishment of rules pertaining to council executive meetings and standing or special committee meetings. We believe this to be acceptable for council meetings only and that flexibility should be allowed for all other committees of council.

Section 14(2)

MD of Brazeau - What if no agreement can be achieved in developing a procedural bylaw? The requirement for all members present could be upset by two councillors alternating their absence. How would you have an organizational meeting? An avenue for ministerial intervention or non-unanimous attendance may be necessary.

Section 15

Town of Lacombe - Section makes provisions for written but does not address the electronic process now available to municipalities.

Section 15(1)

City of St. Albert - Person or position should be non-gendered related - remove word "he".

Section 15(2)

City of St. Albert - Reduce 14 day period to 3 municipal business days.

Section 15(2)(3)

MSB - Should be amended to allow municipality to establish appropriate time frames for calling meetings.

Between Section 15(3) and (4)

MSB - Should include provision for telephone conference meetings.

Section 15(4)

County of Newell - Feel all members must consent; not just 2/3.

ID 17 West - Reword clause as aware of situations where this clause has been used to exclude specific councillors from attending discussions on a particular issue.

Section 15(5)(b)

MSB - For clarification reword as follows:
15(5) The notice of a special meeting shall state
(b) in general terms the purpose of the meeting.

Section 16

County of Parkland - The present and proposed acts do not provide for the authority to pay councillors who have been elected but not yet sworn into office for attendance at councillor related functions or for councillor orientation workshops that may occur prior to the organizational meeting. We believe section 16 should be amended to allow for these expenses.

Section 16(2)

MSB - Remove word "reasonable".

Section 17

Town of Fox Creek - Amend to more clearly reflect a council's ability to rotate the position of deputy mayor.

Section 17(2)

City of Edmonton - Suggest section 17(2) should be made effective only until council acts pursuant to section 8(2).

Section 17(3)

City of St. Albert - This section is very cumbersome and it is suggested that the system followed in St. Albert be considered that is, at the annual organizational meeting, a roster of deputy mayors is established with each alderman assuming the deputy mayor's position for a two month period. In the event that the mayor and the deputy mayor are absent and cannot perform a particular function, the next designated deputy mayor can perform the duties of the chief elected officer.

Section 18

City of Edmonton - Requiring each deputy or acting mayor to swear an oath before entering duties would result in a great deal of oath swearing.

City of Calgary - Incorporate all oaths for various offices to be one form.

County of Paintearth - There is no provision for a person to take an affirmation if for whatever reason, they will not swear an oath.

City of St. Albert - All duties listed should be on one oath so separate duty oaths not required.

Section 19

MSB - Deleted as to pursuant to the principles enunciated by the MSRC, no special provision is necessary to allow an elected official to be referred to by the working title of "alderman" if council so agrees.

Honourable Elaine McCoy - Remove "alderman" as an option. As Minister responsible for Women's Issues, feels it is essential that the titles of public office be clear, descriptive and appropriate for both men and women.

City of Edmonton - Is the term "alderman" sexist? Simply establish the term "councillor".

Section 20

City of Calgary - That the duties of elected officials be amended to emphasize their policy setting role. Re-introduce present MGA 51(1)(b) in proposed legislation; namely "cause the laws governing the municipality to be executed".

Section 20(d)

Village of Hines Creek - Feel the reference "any negligence, carelessness or violation of duties" is an opening for discussion of petty concerns and also feel these issues are better discussed at an in-camera session.

City of St. Albert - Delete as provision is demeaning to elected officials.

City of Red Deer - Delete as covered in 20(c).

Section 20(e)

City of St. Albert - Section 20(e) considerably weakens the role of the mayor and could result in decisions being made which commit municipal funds or staff resources without council approval. The section as it now reads could have any councillor requesting "any information" required to the detriment of other aldermen or the entire council. The words "any information" need to be clearly defined as to the type and magnitude of information any specific councillor can obtain.

Section 21

City of St. Albert - The organization proposed in the new section may work very well for small municipalities but would be unwieldy in an urban municipality. The elected members expressed grave concern with the increased role of the council in the administration, particularly the personnel role which dilutes the traditional council/city manager form of government. It is our opinion that the status quo of the existing legislation be maintained with the provision that a CAO may hold the other statutory titles if council so wishes. The current legislation provides clear lines of authority and protects the council/city manager form of government.

Section 21(1)(b)

City of St. Albert - Delete as is demeaning to elected officials.

Section 21(2)(b)

City of St. Albert - Add "and is subject to the same restrictions" to address those instances where a member cannot vote on a matter which is the subject of a hearing, without having heard the evidence.

Section 21(2)

ID 17 West - Further clarification of this section may be required. The question was raised as to whether the chief elected officer could attend a meeting in which all the appointed representatives were in attendance and still exercise the power to vote. This could have the effect of swaying the vote. Further to this, if the number of votes allowed cannot be exceeded and the chairman attends, does his authority supersede that of the regular appointed member?

Section 22

County of Barrhead - Council reviewed Section 22, Subsection 1, Subsection "e" and can find no record of section20(g) in your document; therefore we would be pleased to have some clarification what this might refer to. Council also looked at the matter of Section 22, Subsection 1, and felt that this was much too harsh in that if a councillor refused to vote they would be disqualified rather than the present section where a fine is provided for. We would recommend that the present act govern subsection "e".

Section 22(1)(c)

ID 21 - Change to read "for 3 consecutive regular meetings".

County of Vulcan - Believe eight weeks would create hardship in counties.

Section 22(1)(e)

MD of Clearwater - Is the intent to disqualify if councillor does not vote in accordance with 12(1).

Summer Village of Lakeview; Village of Hines Creek; Counties of Barrhead, Vulcan, Strathcona; MD's of Kneehill, Cypress, Clearwater; Towns of Stettler, Peace River, Whitecourt; Cities of Airdrie, Red Deer; Alberta Agriculture - What's the reference to Section 20(g); should it read 20(f); if so should be written to permit some disclosure in some circumstances.

City of Calgary - "Contravenes section 12(1) or 20(f)", rather than 20(g).

Section 23(3)(a)

Town of Whitecourt - Add "or" at the end of the line.

Section 23(3)(f)

Alberta Hospital Association - Retention of this section with its exemption for voluntary ambulance service only may not take into account of hospital board-managed ambulance services becoming Ambulance District Boards under Bill 25.

Section 23(3)(1)

City of Red Deer; County of Strathcona - Delete as should not deal with specific instances.

Section 24(1)

City of Red Deer - Add after "No contract or agreement with a municipality" the words "or committee or administrative body sanctioned by the council of a municipality funds"; same should be added to Sections 24(3) and 31(8) to be consistent with Section 45(2).

Section 24(2)

City of Edmonton - To phrase "incidental to and in the normal course of his practice of his profession" meant to modify "professional services" or is it meant to modify the "person contracting with the municipality". If former, remove.

Section 25

City of Edmonton - Add subsection (7) reading:
(7) Subsection (1) shall not apply to:
(a) the approving of a budget allocating funds for a matter previously approved; or
(b) the approving of a report of a council acting as Committee of the Whole.

Section 25(3)

County of Paintearth - It is our belief that it may eliminate any hard feeling that might arise if the person did in fact leave the meeting.

Section 26(4)

MSB - Amend to allow the council to use its discretion in determining the severity of the breach and the appropriate fine.

Section 27

City of Calgary - "...finds that the person <u>should be</u> disqualified..." rather than "is".

Section 30(1)

City of Calgary - "...file with <u>the employee so designated</u>..." rather than "a designated employee".

Section 30(2)

MSB - Reword to allow council to determine fine allowable.

Section 31

MSB - Reword to clarify and condense the requirements of CAO position.

City of Grande Prairie - Include provision that a municipality shall appoint a municipal secretary and treasurer and these positions may be filled by the CAO. Also section is too restrictive and does not provide flexibility by defining the administrative structure to be put in place.

County of Vulcan - Have concerns over the number of positions to be filled by the bylaw.

Town of Fox Creek - Adjust to allow what section 31 says but not to make it mandatory.

Section 31(1)

County of Parkland - Should be changed to read:
(a) "shall establish the position of chief administrative officer who shall be responsible to the Council for the management of the human, financial and material resources of the municipality, and implementing the policies and carrying out the programs approved by the Council, and"

Section 31(1)(c)

City of Calgary - Add "May establish a board of two or municipal commissioners in lieu of position CAO as municipal commissioners may to anything that, by the Act or any other Act is to be done by the CAO".

Section 31(3)

Town of Stettler - Change appointment of deputy to "may" rather than "shall".

Section 31(4)

County of Parkland - It is agreed that the Council shall at least annually review the performance of the Chief Administrative Officer; however the words "and deputy if any" should be deleted from this section as the deputy's reporting function should be to the CAO not Council.

Section 31(5)

County of Parkland - Should provide more flexibility and be changed to read: "The Council may, by resolution, ..."

ID 17 West - Why is it necessary to have a 2/3 majority, as opposed to a simple majority, in order to dismiss a chief administrative officer or deputy?

Section 31(6)

City of St. Albert - Delete it its entirety - It is entirely inappropriate for the CAO to be singled out in this way with an annual fixing of salary and benefits, particularly since all other employees enjoy the protection of anonymity.

Section 31(6)(b)(iii)

City of Edmonton - Change to read "...in the case of termination, other than for just cause, the termination benefits..."

Section 31(9)

County of Parkland - This section is unduly hard and should refer to contracts only and should not include "any matter that could monetarily affect the officer". The pecuniary interest should also be limited to the CAO and not include the deputy.

Section 31(9)(b)

Town of Fox Creek - Amend "vi" as follows "This requirement is only required if the land in question has not been advertised for public sale or when the offer is for a price less than publicly posted price.

Section 31(10)

City of St. Albert - Delete in its entirety - why provide the Minister with more authority than council?

Section 31, 32(2)(d) and 35(2)(a)

ASTA - It would be desirable if a means could be found to develop both the concept of CAO and Superintendent of Schools.

Section 32

Alberta Labour - General Safety Services - Not clear whether Fire Chief considered a designated official; if so, then if a resignation occurs, the CAO would be responsible rather than present situation whereby the position reverts to mayor.

City of St. Albert - The only employee for whom Council should establish a job description is the CAO since it is this document which determines the organizational structure of the municipality. The CAO must have the flexibility to assign duties to the management team as he/she sees fit. This section should be redrafted to provide for council appointment of designated officials at the pleasure of council and with the right of appeal to council on dismissal. All other interaction should be between the CAO and the designated official.

Section 32(1)

County of Parkland - This section on "Pecuniary Interest" is somewhat unclear and difficult to comment on without a proper written definition of a designated official.

Section 32(2)(d)

MSB - Add section require taking of oath.

Section 32(2)(e)

MD of Cypress - If section 2 remains, delete "e".

Section 33

MSB - Delete and incorporate in Sections 31 and 32.

Section 33(1)

Town of Whitecourt - Why would Deputy Minister want to be notified of appointment of Development Officer, etc?

Section 34

City of Calgary - Clarify intent on personnel policy.

Town of Fox Creek - Should reflect that a municipality has the ability to adopt a personnel policy; however, it should not be mandatory.

City of Grande Prairie - The authority for approval of a personnel policy be placed with CAO rather than council in view of the role of CAO for management of human resources.

Section 35

MSB - Delete as permission granted in 35(1).

Section 35(1)

County of Parkland - The word authorize should be changed to delegate.

Section 36

City of St. Albert - Is the "municipality" the council? Does this imply that the municipal engineer and/or municipal solicitor are to be appointed by council as designated officials?

AACIP; Red Deer Regional Planning Commission; City of Red Deer - Add section (c) as follows: Municipal planner must be a member in good standing as an Alberta Community Planner.

County of Parkland - Under Division 3 "Administration" reference is made to the appointment of officers or employees of the municipality. It is assumed that reference to Engineers and Lawyers refers to these appointments as employees of the corporation.

MSB - Delete as the relevant associations have their own rules of membership and standing.

Section 36(a) and (b)

County of Paintearth - Change word "must" to "should".

Section 37

City of St. Albert - How did the assessor survive as the only titled employee? Is the "municipality" the council? Is the assessor to be appointed by council as a designated official?

County of Parkland - The assessor should be removed from this section of the act as he/she may not be an employee of the corporation. Assessor should be referred to under Division 4 "Corporate Responsibilities".

Section 38

City of St. Albert - What happened to the provision for assistant officials as opposed to acting officials, currently prescribed under section 83 of the Act? There is an oblique reference to a deputy designated official in subsection 2 but no authority section to create such deputies. If these positions are authorized, are they to be subject to the designated official regulations?

Section 38(2)

County of Parkland - This section should provide the CAO with the authority to appoint an acting CAO in his/her absence where the absence does not exceed one month.

City of Grande Prairie - Should allow a period of four weeks for the CAO to appoint an acting official before it is required to be ratified by council.

Section 40

Town of Whitecourt - Opening line should recognize the possible plurality of jobs.

City of Edmonton - Section implies paper records; change to take modern technology into account.

Section 40(a)

City of Red Deer - Delete "in the English language" as may be construed as a prejudicial remark".

Section 40(e) and (f)

City of St. Albert - Delete. The Minister should not be placed in the position of directing a municipal staff member. Equally, a municipal staff member should not be "required" to do what a provincial staff member directs. The wording in these sections is paternal at best.

Section 40(f)

MSB - Relate the term "inspector" to section 11 of the Department of Municipal Affairs Act as empowering provision is contained therein.

Village of Coalhurst; MD of Cypress - Change "inspector" to "official".

Section 40(g)

City of St. Albert - Transfer this requirement to the Local Authorities Election Act.

Section 40(j)

City of Calgary - "...deposit in a financial institution designated by the council..." rather than "a bank, Treasury Branch or credit union".

Section 41(1)(a) and (b)

MSB - Delete reference to "the last page of".

City of Red Deer - Is 41(2)(a) saying two designated officials must sign 41(1)(d)? Should not 41(2)(a) be same as 41(2)(b) and allow for one designated official only to sign if council so directs?

Section 41(3)

MSB - Omit allowing council to decide what forms of signatures are acceptable.

Section 43

Town of Lacombe - Why does completion of financial statement suddenly change at population level of 25,000?

McClelland & Co; Stewart & Wiley - Why is it necessary to change filing date for cities under 25,000?

County of Parkland - The deadline for submission of financial statements should not differentiate on the basis of population. All municipalities should be subject to the same deadline in order to provide comparisons earlier in the year.

City of Grande Prairie - Date for submission remain as presently exists for cities (namely April 15).

City of Calgary - Change due date to July 31.

Section 44

MSB - Omit reference to term of appointment or reappointment to allow municipality to stipulate term of its auditor. Further incorporate Section 49 as subsection to section 44.

Section 44(1)

City of Red Deer; Village of Coalhurst; Fort Saskatchewan Regional Industrial Association - Should describe the required qualifications of an auditor (Professional Association).

Section 45(1)

MSB - Plural the word "voucher" to "vouchers".

Section 45(5)(b)

MD of Cypress - Request wording be clear this is not a blank cheque to undertake whatever the auditor wants to do.

Section 47(2)

MD of Kneehill - Feel auditor should report to CAO and council rather than council.

City of Calgary - "...report in writing to either the CAO or the council, and the deputy minister...". (Additional words and punctuation underlined.)

Section 48

MSB - Delete as stipulates what is part of established audit practices.

County of Parkland - This section should be deleted from the Act as it is the auditor's responsibility to sample and substantiate outstanding accounts in order to confirm the receivables. The Act should not dictate auditing procedures.

Section 49

McClelland & Co. - While this has been expanded to include comprehensive audits, it may be too restrictive in that auditors are continually auditing special projects for funding purposes.

County of Parkland - The word "accounting" should be deleted from this section as the additional duties of an accounting nature performed by the auditors would be an administrative action through the budgeting process.

MSB - Delete and incorporate in section 44.